

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GABRIELA ESPARZA,)
Plaintiff,)
v.)
AIT ABDELHAK, VAMAR INC.,) Civil Action File No.
NATIONAL CONTINENTAL)
INSURANCE COMPANY,)
JOHN DOE1&2 ABC)
CORP.&XYZ CORP.)
Defendants.)

PETITION FOR REMOVAL

TO: The Honorable Judges of the United States District Court for the
Northern District of Georgia, Atlanta Division:

COMES NOW, Defendant Ait Abdelhak (“Defendant Abdelhak” hereinafter), Defendant Vamar Inc. (“Defendant Vamar” hereinafter), and National Continental Insurance Company, (“Defendant National”) hereinafter, by and through undersigned counsel, and hereby files this Petition for Removal and respectfully shows this Court the following:

1. A civil action has been filed and is now pending in the State Court of Clayton County, State of Georgia, designated as Civil Action File No. 2023CV01056.

2. The Summons and Complaint in that action were filed in the State Court of Clayton County on May 5, 2023 and were thereafter served upon the Secretary of State of the State of Georgia on May 16, 2023 pursuant to O.C.G.A. § 40-12-2 for Defendant Abdelhak. The Secretary of State filed a Certificate of Acknowledgement on May 16, 2023, certifying receipt of the copies of legal documents regarding service of process upon Defendant Abdelhak pursuant to O.C.G.A. § 40-12-2. Thus, Defendant Abdelhak timely files this petition of removal.

3. The Summons and Complaint were first received by Defendant National by service through National's registered agent on May 12, 2023. Thus, National timely files this petition of removal.

4. According to a May 18, 2023 Certificate of Acknowledgement, the Secretary of State of the State of Georgia received copies of legal documents regarding service of process upon Defendant Vamar on May 16, 2023 pursuant to O.C.G.A. § 40-1-117. Thus, Defendant Vamar timely files this petition of removal.

5. Defendant Abdelhak, Defendant National, and Defendant Vamar file herewith a copy of all process, pleading, and orders including the Summons and Complaint in this action, pursuant to 28 USC §§ 1446 and 1446(b), which are attached hereto as:

- Exhibit A, Summons;
- Exhibit B, Complaint;

- Exhibit C, Plaintiff's Affidavit of Compliance for Service of Process Upon Non-Resident Motorist;
- Exhibit D, Defendant Abdelhak's Secretary of State Certificate of Acknowledgment;
- Exhibit E, Defendant Vamar's Secretary of State Certificate of Acknowledgment;
- Exhibit F, Defendant Abdelhak's Answer and Defenses to Plaintiff's Complaint;
- Exhibit G, Defendant Abdelhak's Jury Trial Demand;
- Exhibit H, Defendant Vamar's Answer and Defenses to Plaintiff's Complaint;
- Exhibit I, Defendant Vamar's Jury Trial Demand;
- Exhibit J, Defendant National's Answer and Defenses to Plaintiff's Complaint;
- Exhibit K, Defendant National's Jury Trial Demand; and
- Exhibit L, Defendant Abdelhak, Defendant National, and Defendant Vamar's Notice of Removal;

6. Defendant Abdelhak was at the commencement of this suit, and has at all times since, been a resident of Kentucky, residing at 3236 Golden Turtle Circle, #202, Louisville, Kentucky 40218.

7. Defendant Vamar was at the commencement of this suit, and has at all times since, been a Domestic Corporation organized and existing under the laws of Illinois and having its principal place of business located at 1800 W Hawthorne Lane, Suite F1, West Chicago, Illinois 60185.

8. Defendant National was at the commencement of this suit, and has at all times since, been a Domestic Corporation organized and existing under the laws of Ohio and having its principal place of business located at 6300 Wilson Mills Road Cleveland, Ohio 44143.

9. Plaintiff is a citizen of the State of Georgia.

10. The action described above is a civil action with a claim of which this Court has original jurisdiction, and it is one that may be removed to this Court by Defendant Abdelhak, Defendant Vamar, and Defendant National pursuant to the provisions of 28 USC §§ 1332 and 1441 et seq., in that there is complete diversity among the parties and Defendant Abdelhak, Defendant Vamar, and Defendant National are not residents of the State of Georgia, and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

When deciding whether the amount in controversy has been satisfied, the District Court can use its judicial experience and common sense in determining whether a case satisfies the amount in controversy. Roe v. Michelin North America, Inc., 613 F.3d. 1058, 1064 (11th Cir. 2010); see also Carr v. Halloway, No. 5:09-

CV-327, 2010 WL 3937407 (M.D. Ga. Oct. 1, 2010) (granting motion for reconsideration in light of *Roe v. Michelin North America, Inc.* and concluding under *Roe* standard that amount in controversy was satisfied based on allegations in complaint); see also Dye v. Amdocs Development Centre India, LLP, No. 1:18-cv-02122, 2020 WL 5215182 (N.D. Ga. Aug. 31, 2020) (finding amount in controversy satisfied after medical records submitted with the plaintiff's pre-suit demand demonstrated the plaintiff's recommended surgery would increase the damages in excess of the required amount in controversy).

On January 6, 2023, Plaintiff submitted a demand wherein Plaintiff demanded \$1,000,000 to settle the claims raised against Defendants in the Underlying Lawsuit. [Exhibit M]¹. Subsequently, Plaintiff filed the underlying lawsuit wherein she seeks to recover, *inter alia*, medical bills totaling \$73,796.28, as well as "physical and mental pain and suffering in amount to proven at trial" and seeks punitive damages. [Exhibit B, p. 7 ¶ 33 and p. 8]. Although the Complaint does not specify the amount of total damages Plaintiff seeks to recover in the lawsuit, Plaintiff has specifically stated her intention to seek recovery of at least \$1,000,000 in the lawsuit. [Exhibit M]. Therefore, the amount in controversy far exceeds \$75,000.00, exclusive of interest and costs.

¹ The demand has been redacted for privacy.

11. Defendant Abdelhak, Defendant Vamar, and Defendant National have attached hereto a copy of the Notice of Removal in the State Court of Clayton County, Georgia. [Exhibit L].

12. This action is currently pending in the State Court of Clayton County, Georgia, which is within the jurisdiction of the Northern District of Georgia, Atlanta Division. 28 U.S.C.A. § 1446(a).

WHEREFORE Defendant Abdelhak, Defendant Vamar, and Defendant National pray the above action now pending before the State Court of Clayton County, Georgia be removed to this Court.

This 8th day of June, 2023.

COPELAND, STAIR, VALZ & LOVELL,
LLP

By: /s/ Melissa C. Greene
MELISSA C. GREENE
Georgia State Bar No. 580723
SHARON OPILA
Georgia State Bar No. 631777

Copeland, Stair, Valz & Lovell, LLP
191 Peachtree Street, N.E., Suite 3600
P. O. Box 56887 (30343-0887)
Atlanta, Georgia 30303-1740
Telephone (404) 522-8220
mgreenec@csvl.law
sopila@csvl.law

*Counsel for Defendants Ait
Abdelhak, Vamar, Inc., and
National Continental Insurance
Company*

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GABRIELA ESPARZA,

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AIT ABDELHAK, VAMAR INC.,
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Civil Action File No.

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing PETITION FOR REMOVAL pleading upon all parties to this matter via statutory electronic filing, addressed to counsel of record as follows:

Sean B. Fields
Hung Q. Nguyen
77GOODLAW, H.Q. Alex
Nguyen Law Firm, LLC
5495 Jimmy Carter Blvd., Suite B-17
Norcross, GA 30093
litigation@770goodlaw.com
sean@770goodlaw.com
Attorneys for Plaintiff

Respectfully submitted, this 8th day of June, 2023.

COPELAND, STAIR, VALZ & LOVELL,
LLP

By: /s/ Melissa C. Greene

MELISSA C. GREENE

State Bar No. 580723

SHARON R. OPILA

State Bar No. 631777

Copeland, Stair, Valz & Lovell, LLP
191 Peachtree Street, N.E., Suite 3600
P. O. Box 56887 (30343-0887)
Atlanta, Georgia 30303-1740
Telephone (404) 522-8220
mgreene@csvl.law
sopila@csvl.law

*Counsel for Defendants Ait
Abdelhak, Vamar, Inc., and
National Continental Insurance
Company*